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EXAMINER

TAWFIK, SAMEH

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3721

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/006,695 | <b>Applicant(s)</b><br>PARRA, FRANCISCO |  |
|                              | <b>Examiner</b><br>Sameh H. Tawfik   | <b>Art Unit</b><br>3721                 |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the manufacture of an easy open device" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the internal face" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the packaging film" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the tearing" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the machine direction" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "said closest transverse closure." in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

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Claim 5 recites the limitation "the part of the surface" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the part of the surface" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the self-stick part" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the surface" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the package production line." in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the package production line" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the position" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the control logic," in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the alignment" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the information" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "said applicator head" in line 6. There is insufficient antecedent basis for this limitation in the claim.

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Claim 10 recites the limitation "said siliconed material" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the consumer," in 4. There is insufficient antecedent basis for this limitation in the claim.

(claim 1, line 2) ""Flow Pack"" it is vague and indefinite because it is not clear what applicant means by "Flow Pack".

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-10, and 18 the best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Simeone (3,345,918).

Simeone discloses process for the manufacture of an easy open device comprising the steps of attaching the strip (Fig. 2; via 12) transversely to the machine direction (Fig. 4; via tear strip 52) on the internal face of the packaging film (Fig. 4; via tear strip 52 in the inner face of the package film 26 and 30), and producing a through cut on the package film (Fig. 2; via 17 and 19), said through cut aligned with one end of said detachable strip to generate a tear area (Fig. 2; via the outer edge of the tear strip 12). Note that the tear strip (Fig. 4; via 52) could be considered as been attached transversely to the machine direction (via direction F). The preamble of the claim is not positively cited in the body of the method step, therefore, is not given much patentable weight.

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Regarding claim 2: the tear area generates an upper flap between said tear area and said closest transverse closure (Fig. 1; via by opening the top flap using tear strip 12).

Regarding claim 3: the through cut (via as a result of opening the top flap in Fig. 1) is accomplished by means of at least one incision parallel to the detachable strip (12). Simeone does not disclose longitudinal seam. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Simeone's method by having a longitudinal seam on the package, as a matter of engineering design choice, since the examiner takes an official notice that a longitudinal seam on the package, is old, well known, and available in the art, in order to strengthen the bag, see for example US 2,294,220.

Regarding claim 4: said through cut is accomplished by means of a through cut at one end of the detachable strip (Fig. 1; via by opening the top flap), both being attached to an easy open/close element that blocks said through cut and said end of said detachable strip (Fig. 1; via the edge of the tear strip 12).

Regarding claim 6: wherein the part of the surface that can be grasped by the consumer of said easy open/close element contains no adhesive (Fig. 1; via the edge of the tear strip with no adhesive).

Regarding claim 7: wherein said upper flap (Fig. 1; via upper portion of the bag; above tear strip 12) is folded over on itself and over the tear area (via by opening and closing the flap top), attaching to one of the faces of said package across "the self-stick part" of the surface of said easy open/close element to produce its closure.

Regarding claims 8 and 9: wherein said detachable strip (12) is affixed to the packaging film off the package production line (Figs. 1, 2, and 4).

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Regarding claim 10: inputting the position of said detachable strip on said package in the control logic, optically reading the alignment for said packaging film in motion, transmitting the information to said applicator head regarding said detachable strip, detaching, by means of said applicator head, said detachable strip to said internal face of the packaging film.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simeone (3,345,918) in view of Kalajian (3,687,352).

Simeone does not disclose that detachable strip is self sticking and reclosable. However, Kalajian discloses a similar method comprising a self sticking and reclosable detachable strip (Fig. 9; via tape portion 33).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made by substituting Simeone's tear strip 12 by having self sticking and reclosable detachable strip, as suggested by Kalajian, in order provide a closure mechanism which is easy to manufacture and reliable and satisfactory in its operation (column 1, lines 30-33).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ST.



EUGENE KIM  
PRIMARY EXAMINER